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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/864,015	<b>Applicant(s)</b> TRESSER ET AL.	
	<b>Examiner</b> JESSICA L. LEMIEUX	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Non-Final Office action is in response to the application filed on May 23<sup>rd</sup>, 2001 and in response to the applicant's arguments/amendments filed on April 22<sup>nd</sup>, 2009. Claims 1-34 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 22<sup>nd</sup>, 2009 has been entered.

#### ***Response to Arguments***

3. The declaration filed on April 22<sup>nd</sup>, 2009 under 37 CFR 1.131 has been considered but is ineffective to overcome the Brown reference.

#### **Examiner notes that as per the MPEP:**

#### **III. THREE WAYS TO SHOW PRIOR INVENTION (see MPEP 715)**

The affidavit or declaration must state FACTS and produce such documentary evidence and exhibits in support thereof as are available to show conception and completion of invention in this country or in a NAFTA or WTO member country (MPEP § 715.07(c)), at least the conception being at a date prior to the effective date of the reference. Where there has not been reduction to practice prior to the date of the

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reference, the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice or up to the date of filing his or her application (filing constitutes a constructive reduction to practice, 37 CFR 1.131).

As discussed above, 37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

- (A) > (actual)< reduction to practice of the invention prior to the effective date of the reference; or
- (B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or
- (C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

**Examiner notes that it seems as though Applicant is attempting to show prior invention by (C) which requires two steps, (1) conception of the invention prior to the effective date of the reference and (2) due diligence from prior to the reference date to the filing date of the application.**

Conception is the mental part of the inventive act, but it must be capable of proof, as by drawings, complete disclosure to another person, etc. In *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897), it was established that conception is

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more than a mere vague idea of how to solve a problem; the means themselves and their interaction must be comprehended also.

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, **it is not enough merely to allege that applicant or patent owner had been diligent**. Ex parte Hunter, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

**Examiner notes that although both Exhibit's A and B can be shown to have been "created" prior to the effective date of the reference, they have either been modified at a date later than the effective date of the reference, or archived later than the effective date of the reference. Examiner notes that since it appears that none of the exhibits clearly show conception prior to the effective date of the reference, the Applicant has therefore, not met step (1).**

**Examiner notes that stating that they merely "diligently and actively assisted the IBM Corporation Patent Department in the planning, preparation, review and filing" of the application does not constitute diligence by the applicant. Examiner notes that Applicant therefore, has not met step (2).**

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Brown reference to either a constructive reduction to practice or an actual reduction to practice.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 25-34 are rejected under 35 U.S.C. 101 because the claimed invention is not directed to a secondary statutory subject matter/class.

Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must be (1) tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under § 101 and should be rejected as being directed to non-statutory subject matter. Merely having "another statutory class" in the preamble and not in the body of the claim is also not sufficient to render the claim statutory.

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. In this particular case, claims 25-34 are not tied to another statutory class, such as hardware. Thus, it is unclear as to whether or not the claims are mere processes that involve purely human labor.

Appropriate correction is required.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-21, 23-28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication US2002/0065766 to Brown et al (hereinafter Brown) in view of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman).

As per claims 1, 11, 15, 25 and 34

Brown teaches the system, medium, process and method of an electric marketplace via a network comprising:

- a. broadcasting a price quote from a market maker over the network at a beginning of a current trading interval (paragraphs 0015+),
- b. distributing the price quote over a plurality of network nodes within the network (paragraphs 0015+),
- c. receiving an order submitted from a participant who is in communication with one of the network nodes (paragraphs 0015 and 0044-0067),
- d. time stamping the order when the order passes through a trusted node, delivering the order to the market maker and examining the time stamp of the order to determine if the order qualifies for processing during the current trading interval (paragraphs 0044-0067),
- e. where, comparing the timestamp with a first predetermined time set during the trading interval, comparing a time the order was received with a second predetermined time set during the current trading interval and qualifying the order if both the timestamp is less than the first predetermined time and the time the order was received is less than the second predetermined time (paragraphs 0044-0067).

Brown does not specifically teach each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker.

Gutterman teaches each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the

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order being placed by a participant and precedes the order being received by the market maker (column 7, line 59- column 8, line 53).

Guttermann further teaches receiving a time stamp at the market maker (submitting timestamp orders to the market) (column 8, line 10- column 9, line 13).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Brown to include that each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker and receiving a time stamp at the market maker as taught by Guttermann to assist with audits and maintain the integrity of orders as well as carrying out order matching features.

As per claims 2-4

Brown discloses a trading interval including a fixed amount of time, a trading interval including a variable amount of time defined by the trading system and the trading system defining a trading cut-off time during each trading interval (paragraphs 0015 & 0050-0067).

As per claims 5-8

Brown discloses a time analysis system qualifying orders by comparing the time stamp for each order with the trading cut-off time for the current trading interval, a trading system defining an effective endpoint for each trading interval based on a computational time of the market maker, a time analysis system further qualifying orders by comparing a time the order was received by the market maker with the effective endpoint of the current trading interval, and a trading system executing each order that qualifies for processing at the call auction of the current trading interval unless an order price does not meet a price fixed by the trading system (paragraphs 0015, 0044-0056 and 0061-0067).

As per claim 9

Brown discloses a trading system that places each order that does not qualify for processing into a queue for consideration during a subsequent call auction (paragraph 0015).

As per claim 10

Brown discloses a system for broadcasting price quotes to each of the nodes in the network (paragraph 0015).

As per claims 12 and 13

Brown discloses a means for examining timing information that compares a time the order was received with an effective endpoint set during the current interval to determine if the order qualifies for processing and a means for examining timing information that compares a time the order was received with an effective endpoint set



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during the current interval to determine if the order qualifies for processing (paragraphs 0015+).

6. Claims 14, 16-21 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication US2002/0065766 to Brown et al (hereinafter Brown) in view of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman) further in view of US Patent Publication US2002/0019795 to Madoff et al (hereinafter Madoff).

As per claims 14, 16-21 and 23-24

Brown teaches an electric marketplace via a network that qualifies orders.

Brown and Gutterman do not specifically teach an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology.

Madoff teaches an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology (paragraphs 0017+).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Brown and Gutterman to include an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub

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technology as taught by Madoff because the additional information and ways to submit bids would be more user-friendly and make the trading system more efficient.

As per claims 26-28 and 30-33

Brown and Gutterman do not specifically teach the price quote being distributed using a Pub/sub technology, the order being submitted via a browser, the order being submitted via a cellular device, the examining step comparing a time stamp to a predetermined time set during the current trading interval, a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval, a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval, a step of considering the order for processing during a subsequent interval if the order does not qualify.

Madoff teaches the price quote being distributed using a Pub/sub technology (paragraphs 0017-0019), the order being submitted via a browser (paragraphs 0017-0019), the order being submitted via a cellular device (paragraphs 0015 & 0017-0019), the examining step comparing a time stamp to a predetermined time set during the current trading interval (paragraphs 0055-0057), a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval (paragraphs 0055-0057), a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval (paragraphs 0055-0057), a step of considering the order for processing during a subsequent interval if the order does not qualify (paragraphs 0026-0027).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Brown and Gutterman to include the price quote being distributed using a Pub/sub technology, the order being submitted via a browser, the order being submitted via a cellular device, the examining step comparing a time stamp to a predetermined time set during the current trading interval, a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval, a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval, a step of considering the order for processing during a subsequent interval if the order does not qualify as taught by Madoff because the additional information and ways to submit bids would be more user-friendly and make the trading system more efficient.

7. Claims 22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication US2002/0065766 to Brown et al (hereinafter Brown) in view

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of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman) in view of US Patent Publication US2202/0019795 to Madoff et al (hereinafter Madoff) and further in view of US Patent Number 6,839,021 to Sheynblat et al (hereinafter Sheynblat).

As per claims 22 and 29

Brown, Gutterman and Madoff disclose an electronic exchange implemented over a network with network nodes, gateway agents and a market maker system as disclosed above.

Brown, Gutterman and Madoff do not specifically teach the gateway agents obtaining times for the time stamps from a global positioning system.

Sheynblat teaches obtaining times for time stamps from a global positioning system (column 3, lines 9-67- column 4, lines 1-2).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the electronic exchange implemented over a network with network nodes, gateway agents and a market maker system to include obtaining times for time stamps from a global positioning system because Sheynblat discloses using the times for time stamps from a global positioning system for use on a network, such as the Internet, or other types of computer networking systems (column 12, lines 21-38).

8. Claims 1-21, 23-28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Number 2002/0161687 to Serkin et al. (hereinafter Serkin) in view of US Patent 6,347,307 to Sanhu (hereinafter Sanhu) further in view of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman).

Serkin teaches the system, medium, process and method of an electric marketplace via a network comprising:

- a. broadcasting a price quote from a market maker over the network at a beginning of a current trading interval (paragraphs [0019, 0028, 0037]),
- b. distributing the price quote over a plurality of network nodes within the network (paragraphs [0025, 0028]),
- c. receiving an order submitted from a participant who is in communication with one of the network nodes (paragraph [0019]),
- d. time stamping the order when the order passes through a trusted node, delivering the order to the exchange and examining the time stamp of the order to determine if the order qualifies for processing during the current trading interval and comparing the timestamp with a first predetermined time set during the trading interval, qualifying the order if the timestamp is less than the first predetermined time (paragraphs [0029, 0049]).

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Serkin does not specifically teach comparing a time the order was received with a second predetermined time set during the current trading interval and qualifying the order if both the timestamp is less than the first predetermined time and the time the order was received is less than the second predetermined time.

Sanhu teaches comparing a time the order was received with a second predetermined time set during the current trading interval and qualifying the order if the time the order was received is less than the second predetermined time.

Examiner notes that incorporating Expiry times into Serkin would enable qualification of an order if both the timestamp is less than the first predetermined time and the time the order was received is less than the second predetermined time.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Serkin to include comparing a time the order was received with a second predetermined time set during the current trading interval and qualifying the order if both the timestamp is less than the first predetermined time and the time the order was received is less than the second predetermined time as taught by Sanhu to incorporate expiry times enabling a provider to establish a deadline for price quotes to be valid.

Serkin and Sanhu does not specifically teach delivering the order to the market maker and each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker.

Gutterman teaches delivering the order to the market maker and each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker (column 7, line 59- column 8, line 53). Gutterman further teaches receiving a time stamp at the market maker (submitting timestamp orders to the market) (column 8, line 10- column 9, line 13).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Serkin and Sanhu to include delivering the order to the market maker and that each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker and receiving a time stamp at the market maker as taught by Gutterman to assist with audits and maintain the integrity of orders as well as carrying out order matching features.

As per claims 2-4

Serkin and Sandhu disclose a trading interval including a fixed amount of time, a trading interval including a variable amount of time defined by the trading system and the trading system defining a trading cut-off time during each trading interval (Serkin: paragraphs [0029, 0049, 0054], Sanhu: column 40- 43).

As per claims 5-8

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Serkin and Sandhu discloses a time analysis system qualifying orders by comparing the time stamp for each order with the trading cut-off time for the current trading interval, a trading system defining an effective endpoint for each trading interval based on a computational time of the market maker, a time analysis system further qualifying orders by comparing a time the order was received by the market maker with the effective endpoint of the current trading interval, and a trading system executing each order that qualifies for processing at the call auction of the current trading interval unless an order price does not meet a price fixed by the trading system (Serkin: paragraphs [0029, 0049, 0054], Sanhu: column 40- 43).

As per claim 9

Serkin discloses a trading system that places each order that does not qualify for processing into a queue for consideration during a subsequent call auction (paragraph [0054]).

As per claim 10

Sandhu discloses a system for broadcasting price quotes to each of the nodes in the network (column 7, lines 5-17).

As per claims 12 and 13

Serkin and Sandhu teaches discloses a means for examining timing information that compares a time the order was received with an effective endpoint set during the current interval to determine if the order qualifies for processing and a means for examining timing information that compares a time the order was received with an effective endpoint set during the current interval to determine if the order qualifies for processing (Serkin: paragraphs [0029, 0049, 0054], Sanhu: column 40- 43).

9. Claims 14, 16-21 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Number 2002/0161687 to Serkin et al. (hereinafter Serkin) in view of US Patent 6,347,307 to Sanhu (hereinafter Sanhu) in view of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman) further in view of US Patent Publication US2002/0019795 to Madoff et al (hereinafter Madoff).

As per claims 14, 16-21 and 23-24

Serkin teaches an electric marketplace via a network that qualifies orders.

Serkin, Sanhu and Gutterman do not specifically teach an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information

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further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology.

Madoff teaches an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology (paragraphs 0017+).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Serkin, Sanhu and Gutterman to include an electronic exchange wherein the market participants submit orders to the network from user interfaces that communicate with the network nodes, an electronic exchange wherein the user interfaces comprise web browsers, an electronic exchange wherein the user interfaces comprise cellular devices, an electronic exchange wherein the market information further includes quote information established at a previous call auction, an electronic exchange further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time, an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology as taught by Madoff because the additional information and ways to submit bids would be more user-friendly and make the trading system more efficient.

As per claims 26-28 and 30-33

Serkin, Sanhu and Gutterman do not specifically teach the price quote being distributed using a Pub/sub technology, the order being submitted via a browser, the order being submitted via a cellular device, the examining step comparing a time stamp to a predetermined time set during the current trading interval, a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval, a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval, a step of considering the order for processing during a subsequent interval if the order does not qualify.

Madoff teaches the price quote being distributed using a Pub/sub technology (paragraphs 0017-0019), the order being submitted via a browser (paragraphs 0017-0019), the order being submitted via a cellular device (paragraphs 0015 & 0017-0019), the examining step comparing a time stamp to a predetermined time set during the current trading interval (paragraphs 0055-0057), a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval (paragraphs 0055-0057), a step of processing the order if it

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qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval (paragraphs 0055-0057), a step of considering the order for processing during a subsequent interval if the order does not qualify (paragraphs 0026-0027).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the trading system of Serkin, Sanhu and Gutterman to include the price quote being distributed using a Pub/sub technology, the order being submitted via a browser, the order being submitted via a cellular device, the examining step comparing a time stamp to a predetermined time set during the current trading interval, a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval, a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval, a step of considering the order for processing during a subsequent interval if the order does not qualify as taught by Madoff because the additional information and ways to submit bids would be more user-friendly and make the trading system more efficient.

10. Claims 22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Number 2002/0161687 to Serkin et al. (hereinafter Serkin) in view of US Patent 6,347,307 to Sanhu (hereinafter Sanhu) in view of US Patent Number 5,297,031 to Gutterman et al (hereinafter Gutterman) in view of US Patent Publication US2002/0019795 to Madoff et al (hereinafter Madoff) and further in view of US Patent Number 6,839,021 to Sheynblat et al (hereinafter Sheynblat).

As per claims 22 and 29

Serkin, Sanhu, Gutterman and Madoff disclose an electronic exchange implemented over a network with network nodes, gateway agents and a market maker system as disclosed above.

Serkin, Sanhu, Gutterman and Madoff do not specifically teach the gateway agents obtaining times for the time stamps from a global positioning system.

Sheynblat teaches obtaining times for time stamps from a global positioning system (column 3, lines 9-67- column 4, lines 1-2).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the electronic exchange implemented over a network with network nodes, gateway agents and a market maker system to include obtaining times for time stamps from a global positioning system because Sheynblat discloses using the times

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for time stamps from a global positioning system for use on a network, such as the Internet, or other types of computer networking systems (column 12, lines 21-38).

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA L. LEMIEUX whose telephone number is (571)270-3445. The examiner can normally be reached on Monday-Thursday 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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